

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

JUAN SOLIS §
v. § CIVIL ACTION NO. 6:17cv116
ROBERT WALKER, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ORDER DENYING AS MOOT DEFENDANTS' FIRST MOTION TO DISMISS

The Plaintiff Juan Solis, a prisoner of the Texas Department of Criminal Justice, Correctional Institutions Division proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged deprivations of his constitutional rights. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

The Defendants filed a Fed. R. Civ. P. 12(b)(6) motion to dismiss Solis' first amended complaint for failure to state a claim. In response, Solis filed a second amended complaint. The Magistrate Judge issued a Report recommending that the Defendants' motion to dismiss be denied as moot without prejudice to the Defendants' right to refile their motion to dismiss in response to the second amended complaint or to file an answer or such other response as may be appropriate.

Neither party filed objections to the Magistrate Judge's Report; accordingly, the parties are barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.") It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 50) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the Defendants' first motion to dismiss (docket no. 13) is **DENIED** as moot without prejudice to the Defendants' right to refile their motion to dismiss to or file an answer or such other motion as may be appropriate, addressing the Plaintiff's most recent amended complaint.

So **ORDERED** and **SIGNED** this **26** day of **February, 2018**.



Ron Clark, United States District Judge